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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/580,029      | 05/26/2000  | Rohit Sharma         | 21216-04993         | 9982             |

7590 05/09/2003

CIENA Corporation  
1201 Winterson Road  
Linthicum, MD 21090

EXAMINER

TON, DAVID

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 2133     | 11           |

DATE MAILED: 05/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |                        |
|------------------------------|-----------------|------------------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s)           |
|                              | 09/580,029      | Sharma                 |
| Examiner                     | D. Ton          | Group Art Unit<br>2133 |

*SF*  
**—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

- Responsive to communication(s) filed on \_\_\_\_\_.
- This action is **FINAL**.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

**Disposition of Claims**

- Claim(s) 1-12 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- Claim(s) 7-12 is/are allowed.
- Claim(s) 1-6 is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

**Application Papers**

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119 (a)-(d)**

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - All  Some\*  None of the CERTIFIED copies of the priority documents have been received.
  - received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

**Attachment(s)**

- Information Disclosure Statement(s), PTO-1449, Paper No(s). 4  Interview Summary, PTO-413
- Notice of Reference(s) Cited, PTO-892  Notice of Informal Patent Application, PTO-152
- Notice of Draftsperson's Patent Drawing Review, PTO-948  Other \_\_\_\_\_

**Office Action Summary**

## **DETAILED ACTION**

1. Claims 1-12 are presented for examination.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over **Henderson et al.** (Henderson) patent no. **6,285,688** in view of **Widmer** patent no. **5,740,186** (art cited by Applicant).

As per claim 1:

Henderson teaches the invention substantially as claimed, including a method of monitoring and restoring a communications network [see claim 1 and abstract], comprising the steps of:

receiving a coded data stream [inherently];

decoding the data stream to determine a performance metric [calculating a quality metric, see claim 1]; and

restoring the performance of the network in response to the performance metric [see step “selecting” of claim 1].

Henderson does not teach determining a performance metric based on a number of transmission code violations.

Widmer teaches a method for error correction based on transmission code violations [see col. 3 lines 4-9].

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Henderson and Widmer by calculating Henderson's quality metric based on Widmer's transmission code violation. This modification would have been obvious and a person having ordinary skill in the art would have been motivated to do so because it would enhance the application of Henderson for a run length limited code.

As per claims 2, 5 and 6:

Henderson teaches generating an error rate [degradation per mile, see claim 2] and calculating the performance metric [quality metric, see claim 2].

As per claims 3 and 4:

Henderson teaches transferring the data from the first link to a second link [selecting a primary path and secondary path, see claim 1].

***Allowable Subject Matter***

4. Claims 7-12 are allowed.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Ton, whose telephone number is (703) 306-3043. The examiner can normally be reached Monday through Thursday from 6:30 AM to 4:00 PM and alternate Friday from 6:30 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady, can be reached at (703) 305-9595.

Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to: (703) 746-7239 (Official)

(703) 746-7240 (Non-Official)

(703) 746-7238 (After-Final)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).



dt

April 30, 2003

DAVID TON  
PRIMARY EXAMINER